S.B. Civil Writ Pet. NO.3503/95
State of Raj. & Anr. Vs. Balkishan & Ors.

Date of order : 19.05.2006

HON'BLE MR. GOVIND MATHUR, J.

Mr.U.C.S. Singhvi for the petitioners.
Mr. S.C. Maloo for the respondents.

By this petition for writ a challenge is given to the validity, propriety and correctness of the judgment dated 07.12.1993 passed by the Additional District Judge No.2, Jodhpur accepting the appeal preferred by the respondent Shri Balkishan under Section 9 of the Rajasthan Public Premises (Eviction of Unauthorized Occupants Act, 1964). The learned Appellate Court while accepting the appeal held that the tenancy of the respondent was not terminated in accordance with provisions of Sec. 106 of the Transfer of Property Act, therefore, he cannot be treated as an unauthorized occupant.

The controversy involved in the instant petition for writ is no more res integra in view of the judgment of this Court in the case of Prabhari Adhikari Devasthan Deptt. Jaipur Vs. Shri Jamsher Ali and Others (D.B. C. Special Appeal No. 1050/98)

decided on 30.10.2001. Hon'ble Division Bench in the case of Prabhari Adhikari (supra) held that the tenancy of a tenant to the public premises could not be determined except as provided under Section 106 and Section 111 of the Transfer of Property Act.

In view of decision of Division Bench of this Court in the case of Prabhari Adhikar (supra), I do not find any merit in the instant petition for writ, the same is, therefore, dismissed. No order as to cost.

(GOVIND MATHUR), J.

ns.